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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : **HON'BLE SHRI S.R. NAYAK, CJ.**
HON'BLE SHRI D.R. DESHMUKH, J.

Misc. Appeal No. 641 OF 2006

Appellant:
(Non applicant 3)

1. United India Insurance Co. Ltd., Branch Manager, United India Insurance Co. Ltd., Anupama Chauk, Jagdalpur, Divisional Office, Katchury Chouk Raipur (C.G.)

Versus

RESPONDENTS

1. Narpati S/o Bhakturam, aged about 25 years, R/o, village Ghatlohanga, Thana Jagdalpur, Tahsil Jagdalpur, District Bastar (C.G.)
(Non-applicant 1)

2. Gurudas Baghel S/o Kanwal Singh Baghel, R/o High School Bastar, Post Bastar, Tahsil Jagdalpur, District Bastar (C.G.)
(Non-applicant 2)

3. Chaiti Wd/o Late Shri Jairam, aged about 45 years,

4. Rameshwari D/o Late Shri Jairam, aged about 16 years,

5. Khirendra S/o Late Shri Jairam, aged about 12 years,

6. Khageshwar Singh S/o Late Shri Jairam, aged about 8 years,

Nos. 4, 5 & 6 Minors, through guardian Respondent no. 3 Chaiti (Mother of minors), All by caste 'Dhakad', All R/o village Adawal, Post Kolpur, Tahsil Jagdalpur, District Bastar (C.G.)
(Applicants/Claimants)

Present : Shri Sanjay S. Agrawal, learned counsel for the appellant.

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ORAL ORDER
(Passed on 27th June, 2006)

The following oral order of the Court was passed by

S.R. Nayak, CJ.

The only contention urged by the learned counsel for the appellant-Insurance Company while assailing the impugned award is that the driver of the motor vehicle involved in the accident, on the date of accident, did not have valid and effective driving licence and therefore, the MACT ought not to have fastened the liability to pay compensation on the appellant-Insurance Company. Although, such a plea was taken in the written statement filed before the MACT, admittedly, the appellant did not adduce any evidence whatsoever to substantiate that plea. It is well settled that it is the burden of the Insurance Company to discharge such plea by substantive legal evidence. In that view of the matter, no exception could be taken to the impugned award fastening the liability on the Insurance Company to pay compensation to the claimants. The appeal is devoid of merit and it is accordingly dismissed.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Subba